

Notice of Allowability

Application No.

10/815,624

Examiner

Timothy J. Kugel

Applicant(s)

HALL ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment after non-final rejection filed 22 May 2007.
2. ☒ The allowed claim(s) is/are 18-22, 24 and 25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Claims 18-22, 24 and 25 are pending as amended on 22 May 2007, claims 1-17, 23 and 26-54 being cancelled.

Response to Amendment

2. Applicant's cancellation of claims 1-17, 23 and 26-54 has rendered the following moot:

The objection to claims 7, 16 and 23 because of informalities has been withdrawn.

The rejection of claims 2, 4, 7, 8, 15, 16 and 17 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been withdrawn.

3. Applicant's terminal disclaimer, filed 22 May 2007, has been fully considered and is proper.

The provisional rejection of claims 1-25 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5-9, 11-21, 23 and 25-30 of copending Application No. 10/815,628 has been withdrawn.

The provisional rejection of claims 1-25 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5-9, 11-15 and 17 of copending Application No. 10/913,375 has been withdrawn.

4. Applicant's amendment with respect to eliminating polyethylene glycol as a potential 'W' substituent has been fully considered and overcomes the following:

The rejection of claims 1-7, 10-14, 16-23 and 25 under 35 U.S.C. § 103(a) as being unpatentable over US Patent 5,282,894 (Albert hereinafter) in view of US Patent Application Publication 2003/0017551 (Parthasarathy hereinafter) has been withdrawn.

Allowable Subject Matter

5. Claims 18-22, 24 and 25 are allowed.

The following is an examiner's statement of reasons for allowance: Neither Albert nor Parthasarathy teach or fairly suggest a printing ink comprising a singlet oxygen quencher and an IR dye of the chemical structure claimed wherein W is a hydrophilic group comprising an ammonium group, an acid group or salt thereof or a sulfonamide group.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. Regarding the following X-references cited on the International Search Report for PCT/AU2004/000436, which claims priority to the same Australian Patent Applications as the instant application and were not treated in the previous Office action:

Japanese Patent Application Publications JP04-146189, JP11-012425 and JP2000-155439 fail to teach a metal complex of a structure as claimed.

Japanese Patent Application Publications JP07-126561, JP07-164729, JP07-216275 and JP08-073792 teach similar metal complexes to those claimed, but fail to teach W groups that are hydrophilic groups comprising an ammonium group, an acid group or salt thereof or a sulfonamide group.

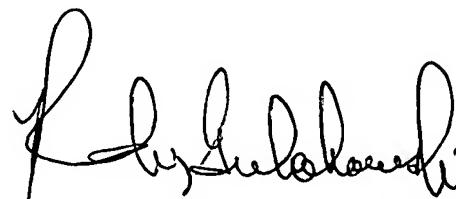
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK
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A handwritten signature in black ink, appearing to read "Randy Gulakowski", written in a cursive style.

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700